

October 12, 1999

Ms. Betty Chrisman
Appliance Rulemaking Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, California 95814-5512

Re: Docket Number 98-A&B-1
Preliminary Comments for Workshop on October 14, 1999

Dear Ms. Chrisman:

The Gas Appliance Manufacturers Association (GAMA), in preparation for the October 14 workshop, has the following preliminary comments responding to the workshop agenda and your October 1, 1999 memorandum:

1. 60- Day Notice. A 60- day notice requirement before sale of new models is impractical, burdensome to manufacturers and an unreasonable interference with interstate commerce; it would also raise federal preemption issues. The staff- proposed change to notice when new model begins production is a better alternative.
2. 10- Day Notice on Models No Longer Sold in California. A manufacturer selling through distributors to a national marketplace would not know when its products are no longer being sold in California. The staff- proposed change to notice when model ceases production is a more practical alternative.
3. Marking Date of Manufacture. The CEC should allow date codes that may not be as precise as specifying the specific day of manufacture. CEC staff should explain whether there is any intent to change what is allowed by the current regulations.
4. Model Numbers on Nameplates. We do not see any problem with such a requirement.
5. Laboratory Approval. GAMA opposes CEC approval of laboratories; some kind of qualification statement from manufacturers is a more reasonable approach. The CEC does not have the legal authority to require manufacturers to provide test reports or to require manufacturers to allow CEC representatives to observe testing at manufacturers facilities.

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6. Enforcement Sampling. The CEC does not have legal authority to enforce NAECA or EPACT standards under either Title 20 or Title 24. In any event, there should be no deviation from the DOE sampling plan. Two tests are an insufficient basis for concluding that there is a non-compliance with a minimum standard or claimed efficiency rating.
7. 45- Day Review. This is an unreasonable burden on interstate commerce.
8. Less Than 20- Gallon Water Heaters. These are NAECA- covered products that the CEC cannot regulate. Such products currently do not have to comply with federal water heater efficiency standards because of the lack of an applicable efficiency test procedure. This anomaly is an issue for DOE to resolve.
9. Marking of EPACT- Covered Products. This is an issue for DOE to consider per EPACT. The CEC should wait for DOE to address labeling of EPACT- covered products.
- 10a. Federal Preemption of State Enforcement of Federal Appliance Efficiency Standards. Inclusion of efficiency standards (even if identical to the federal standards) in the CEC s Title 20 regulations is preempted by federal law and therefore should be deleted. Title 20 regulations should not be used to enforce Title 24 building code requirements because Title 20 regulations apply to all products sold, not only to products installed in new construction. Further, the CEC does not have the legal authority to enforce NAECA/EPACT standards via either Title 20 or Title 24 regulations.
- 10b. Federal Preemption of Information Reporting Requirements. The CEC does not have the legal authority to require manufacturers to provide information regarding NAECA/EPACT- covered products that they are not required to submit to DOE or the FTC. On a voluntary basis, GAMA has provided the CEC information not required by DOE or the FTC, and we intend to continue to provide such additional information to the CEC. We cannot agree, however, that the CEC has the legal authority to require such information from manufacturers.
11. Test Methods for Commercial Refrigerators. No comment.
12. Efficiency Standards for Three-Phase Central Furnaces Less Than 225,000 Btu/hr. The efficiency requirement for three-phase central furnaces less than 225,000 Btu/hr. input should be made consistent with ASHRAE Standard 90.1 Such products should be required to have either a minimum 78% AFUE or a minimum 80% thermal efficiency.

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13. Microwave Ovens. No comment.

14. Wine Chillers. No comment.

Additional Issue (Combination Systems). In Section 1604 of the Preliminary Draft there is a statement that appliances that can serve more than one function, such as both space heating and water heating, shall comply with efficiency requirements applicable to each function. Combination water heaters are water heaters and, as the legislative history of NAECA makes clear, need only comply with efficiency standards for water heaters. They do not have to satisfy NAECA furnace or space heater standards.

Respectfully Submitted,

Joseph M. Mattingly
Director of Government Affairs
and General Counsel

JMM/dac